IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3743 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CENTURY DYEING & PRINTING MILLS

Versus

UNION OF INDIA

Appearance:
MR PR NANAVATI for Petitioner
MR ASIM J PANDYA for Respondents No. 1,2-4

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of decision: 24/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Mr.Nanavati, learned Counsel has challenged the communication dated 18th May 2001 sent to the petitioner Company by the Superintendent of Central Excise, R-1, Division-II, Surat-I, in the matter of utilisation of Deemed Credit Balance. The grievance of the petitioner is that this facility of Deemed Credit Balance could not be denied to the petitioner and the petitioner Company is entitled to avail the same even now notwithstanding the issue of notification No.7/2001 CE (N.T.) dated 1.3.2001. Mr.Asim Pandya appearing for the respondents has very candidly submitted that this communication dated 18th May 2001 is only in the nature of an intimation on the basis of the checking of the monthly returns about the production etc. i.e. R.T.-12 Return for the month of April 2001 and that on the basis of this intimation alone the facility of utilisation of Deemed Credit Balance is not to be denied unless and until the procedure required under the Rules is followed and the petitioner's entitlement for the utilisation of Deemed Credit shall be duly adjudicated by the competent authority. Whereas it has been submitted by the learned Counsel for the respondents that this communication dated 18th May 2001 shall not be acted upon to the prejudice of the petitioner for the purpose of utilisation of Deemed Credit Balance and before he is actually denied such facility, a show cause notice will be issued and the matter will be adjudicated. We find that no interference is required at this stage. The concerned authority shall proceed in accordance with law if at all they intend to deny this facility of utilisation of Deemed Credit Balance to the petitioner and until such matter is adjudicated in accordance with law, the facility shall not be denied to the petitioner Company on the basis of this intimation dated 18th May 2001 alone.

In this view of the matter, Mr.Nanavati does not press this Special Civil Application. The same is hereby disposed of as not pressed. The Rule is hereby discharged. No order as to costs.

24th July 2001 (M.R. Calla, J.)

(N.G. Nandi, J.)

Sreeram.